

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Amendment of Section 73.202(b),)	
Table of Allotments,)	
FM Broadcast Stations.)	
)	
(Judsonia, Arkansas)	)	MM Docket No. 99-98
	)	RM-9483
)	
(Kensett, Arkansas)	)	MM Docket No. 99-99
	)	RM-9484
)	
(Somerton, Arizona)	)	MM Docket No. 99-100
	)	RM-9491
)	
(Augusta, Kansas)	)	MM Docket No. 99-101
	)	RM-9494
)	
(Wellton, Arizona)	)	MM Docket No. 99-102
	)	RM-9495
)	
(Bayfield, Colorado)	)	MM Docket No. 99-103
	)	RM-9506
)	
(Beulah, Colorado)	)	MM Docket No. 99-104
	)	RM-9507
)	
(Center, Colorado)	)	MM Docket No. 99-105
	)	RM-9508
)	
(La Jara, Colorado)	)	MM Docket No. 99-106
	)	RM-9509
)	
(La Veta, Colorado))	MM Docket No. 99-107
)	RM-9510
)	
(Sawpit, Colorado))	MM Docket No. 99-108
)	RM-9511
)	

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FCC MAIL SECTION

(Walsenburg, Colorado))	MM Docket No. 99-109
)	RM-9512
)	
(Westcliffe, Colorado))	MM Docket No. 99-110
	)	RM-9513
)	
(Taft, California)	)	MM Docket No. 99-111
	)	RM-9539
)	
(Thermal, California)	)	MM Docket No. 99-112
	)	RM-9540
)	
(Cimarron, Kansas)	)	MM Docket No. 99-113
	)	RM-9544

NOTICE OF PROPOSED RULE MAKING

Adopted: March 24, 1999

Released: April 2, 1999

Comment Date: May 24, 1999

Reply Comment Date: June 8, 1999

By the Chief, Allocations Branch:

1. Before the Commission for consideration is a multiple docket Notice of Proposed Rule Making setting forth separate proposals to amend the FM Table of Allotments, Section 73.202(b) of the Rules. Each petitioner has stated that it will apply for its requested channel, if allotted. We believe that each proposal warrants consideration because it complies with our technical requirements and would serve the public interest.

2. This is a multiple docket Notice of Proposed Rule Making issued in response to a Commission Public Notice released October 2, 1998 (DA 98-1987). We are combining separate FM allotment proposals into a single Notice of Proposed Rule Making. Each proposal has its own docket and rule making number and the Commission's Reference Center will maintain a separate file for each docket. As discussed in the Public Notice, this procedure will conserve Commission resources and expedite the processing of FM allotment petitions for rule making by avoiding duplicative actions. We request comments and/or counterproposals to the following proposals:

1. MM Docket No. 99-98; RM-9483**Petitioner:** White County Broadcasters

c/o John F. Garziglia, Esq.
Pepper & Corazzini, L.L.P.
1776 K Street, N.W.
Suite 200
Washington, DC 20006

Proposal: Allot Channel 237A to Judsonia, Arkansas, as the community's first local aural transmission service.

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Judsonia, Arkansas	--	237A

Coordinates: 35-17-06 NL; 91-37-45 WL.

Additional Information: The proposed allotment requires a site restriction 1.5 kilometers (.96 miles) northeast to avoid a short-spacing to the licensed site of Station KSSN(FM), Channel 239C, Little Rock, Arkansas, at coordinates 34-47-57 NL; 92-29-29 WL.

FCC Contact: Nancy Joyner, (202) 418-2180.

2. MM Docket No. 99-99; RM-9484**Petitioner:** White County Broadcasters

c/o John F. Garziglia, Esq.
Pepper & Corazzini, L.L.P.
1776 K Street, N.W., Suite 200
Washington, DC 20006

Proposal: Allot Channel 289A to Kensett, Arkansas, as that community's first local aural transmission service.

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Kensett, Arkansas	--	289A

Coordinates: 39-14-00 NL; 91-39-54 WL

Additional Information: The proposed allotment requires no site restriction.

FCC Contact: Nancy Joyner (202) 418-2180.

3. MM Docket No. 99-100; RM-9491

Petitioner: L. Topaz Enterprises, Inc.

c/o Dale A. Ganske, President
3325 Conservancy Lane
Middleton, WI 53562

Proposal: Allot Channel 260C3 to Somerton, Arizona, as that community's first local aural transmission service.

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Somerton, Arizona	--	260C3

Coordinates: 32-35-00 NL; 114-35-05 WL

Additional Information: The proposed allotment requires a site restriction 11.8 kilometers (7.4 miles) east to avoid a short-spacing to the licensed site of Station KGBA(FM), Channel 261A, Holtville, California, at coordinates 32-48-10 NL; 115-29-53 WL; as well as to the site specified in the construction permit issued to Station KGBA(FM) at coordinates 32-47-40 NL; 115-29-53 WL. As Somerton is located within 320 kilometers (199 miles) of the U.S.-Mexican border, concurrence of the Mexican government to the proposed allotment of Channel 260C3 at that community will be required.

FCC Contact: Nancy Joyner, (202) 418-2180.

4. MM Docket No. 99-101; RM-9494

Petitioner: L. Topaz Enterprises, Inc.

c/o Dale A. Ganske, President
3325 Conservancy Lane
Middleton, WI 53562

Proposal: Allot Channel 263A to Augusta, Kansas, as that community's second local FM transmission service.

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Augusta, Kansas	283C2	263A, 283C2

Coordinates: 37-41-12 NL; 96-58-30 WL

Additional Information: The proposed allotment requires no site restriction.

FCC Contact: Nancy Joyner, (202) 418-2180.

5. MM Docket No. 99-102; RM-9495

Petitioner: L. Topaz Enterprises, Inc.

c/o Dale A. Ganske, President
3325 Conservancy Lane
Middleton, WI 53562

Proposal: Allot Channel 240A to Wellton, Arizona, as that community's second local FM transmission service.

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Wellton, Arizona	283C2	240A, 283C2

Coordinates: 32-40-18 NL; 114-08-18 WL

Additional Information: As Wellton, Arizona, is located within 320 kilometers (199 miles) of the U.S.-Mexico border, concurrence of the Mexican government to the proposed allotment of Channel 240A at that community will be required.

FCC Contact: Nancy Joyner, (202) 418-2180.

6. MM Docket No. 99-103; RM- 9506

Petitioner: Mountain West Broadcasting

c/o Victor A. Michael, Jr.

President
Mountain West Broadcasting
6807 Foxglove Drive
Cheyenne, WY 82009

Proposal: Allot Channel 237A to Bayfield, Colorado, as that community's first local FM allotment.

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Bayfield, Colorado	--	237A

Coordinates: 37-13-32 NL; 107-35-51 WL.

Additional Information: The proposed allotment requires no site restriction. Although the petitioner has requested the allotment of Channel 237A to Bayfield as that community's first local FM transmission service, it should be noted that Channel 296C has been proposed for allotment to Bayfield in the context of MM Docket No. 99-76 (RM-9400). See Notice of Proposed Rule Making adopted March 10, 1999 (DA 99-534).

FCC Contact: Nancy Joyner, (202) 418-2180.

7. MM Docket No. 99-104; RM-9507

Petitioner: Mountain West Broadcasting

c/o Victor A. Michael, Jr.
President
Mountain West Broadcasting
6807 Foxglove Drive
Cheyenne, WY 82009

Proposal: Allot Channel 230C3 to Beulah, Colorado, as that locality's first local aural transmission service.

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Beulah, Colorado	--	230C3

Coordinates: 37-53-23 NL; 105-01-13 WL

Additional Information: The proposed allotment requires a site restriction 20.8 kilometers (12.9 miles) south of Beulah to avoid a short-spacing to the licensed site of Station KILO(FM), Channel 232C, Colorado Springs, Colorado, at coordinates 38-44-44 NL; 104-51-43 WL. As Beulah is not incorporated nor listed in the U.S. Census, the proponent must demonstrate its community status. This may be proven by the testimony of local residents or by objective or subjective evidence indicating the existence of a community. See Beacon Broadcasting, 2 FCC Rcd 3469 (1987); affd. 2 FCC Rcd 7562 (1987). Some examples of objective indications of community status include the existence of political, social, economic, commercial, cultural, or religious organizations and services in the community. See Kenansville, Florida, 5 FCC Rcd 2663 (Policy and Rules Div. 1990), affd. 10 FCC Rcd 9831 (1995). Petitioner is requested to provide additional information regarding the attributes of Beulah, Colorado, consistent with the above guidelines.

FCC Contact: Nancy Joyner, (202) 418-2180.

8. MM Docket No. 99-105; RM-9508

Petitioner: Mountain West Broadcasting

c/o Victor A. Michael, Jr.
President
Mountain West Broadcasting
6807 Foxglove Drive
Cheyenne, WY 82009

Proposal: Allot Channel 287A to Center, Colorado, as that community's first local aural transmission service.

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Center, Colorado	--	287A

Coordinates: 37-45-00 NL; 106-06-24 WL

Additional Information: The proposed allotment requires no site restriction.

FCC Contact: Nancy Joyner, (202) 418-2180.

9. MM Docket No. 99-106; RM-9509

Petitioner: Mountain West Broadcasting

c/o Victor A. Michael, Jr.
President
Mountain West Broadcasting
6807 Foxglove Drive
Cheyenne, WY 82009

Proposal: Allot Channel 221A to La Jara, Colorado, as that community's first local aural transmission service.

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
La Jara, Colorado	--	221A

Coordinates: 37-16-30 NL; 105-57-35 WL

Additional Information: The proposed allotment requires no site restriction.

FCC Contact: Nancy Joyner, (202) 418-2180.

10. MM Docket No. 99-107; RM-9510

Petitioner: Mountain West Broadcasting

Victor A. Michael, Jr.
President
Mountain West Broadcasting
6807 Foxglove Drive
Cheyenne, WY 82009

Proposal: Allot Channel 277A to La Veta, Colorado, as that community's first local aural transmission service.

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
La Veta, Colorado	--	277A

Coordinates: 37-30-54 NL; 105-00-18 WL

Additional Information: The proposed allotment requires no site restriction.

FCC Contact: Nancy Joyner, (202) 418-2180.

11. MM Docket No. 99-108; RM-9511**Petitioner:** Mountain West Broadcasting

c/o Victor A. Michael, Jr.
President
Mountain West Broadcasting
6807 Foxglove Drive
Cheyenne, WY 82009

Proposal: Allot Channel 256C3 to Sawpit, Colorado, as that locality's first local aural transmission service.

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Sawpit, Colorado	--	256C3

Coordinates: 37-59-36 NL; 108-00-12 WL

Additional Information: The proposed allotment requires no site restriction. Although Sawpit is listed in the U.S. Census and attributed therein with a population of 36 persons, we note that according to the 1990 edition of the Rand McNally Commercial Atlas and Marketing Guide ("Guide"), it receives mail through Placerville, Colorado. No other community indicia is listed in the Guide. In the absence of customary factors associated with determining community status, such as a library, schools, shopping centers, churches, a newspaper and social or civic organizations, we may find that a population grouping of 36 persons does not constitute a bona fide community for allotment purposes. See Searles Valley, California, 3 FCC Rcd 5221 (1988); see also, Naples, Florida, 41 RR 2d 1549 (1977). Community status may be proven by the testimony of local residents or by objective or subjective evidence indicating the existence of a community. See Beacon Broadcasting, 2 FCC Rcd 3469 (1987), aff'd., 2 FCC Rcd 7562 (1987). Some examples of objective indications of community status include the existence of political, social, economic, commercial, cultural or religious organizations and services in the community. See Kenansville, Florida, 5 FCC Rcd 2663 (Policy and Rules Div. 1990), aff'd. 10 FCC Rcd 9831 (1995). Therefore, petitioner is requested to present the Commission with specific information regarding the attributes of Sawpit, Colorado, consistent with the above guidelines..

FCC Contact: Nancy Joyner, (202) 418-2180.

12. MM Docket No. 99-109; RM-9512